HONOURABLE DR. JUSTICE G. YETHIRAJULU

WRIT PETITION No. 151 OF 1993

Dated 07-03-2006

Between:'

T.Kalyani Devi wife of Shri O.Muniratnam Naidu, 36 years, Lecturer in Home Science, Sri Padmavathy Mahila University, Tirupati,ChittoorDistrict.

Petitioner.

And:

Sri Padmavathi Mahila Viswavidyalam, Tirupati, represented by its Registrar and another.

Respondents.

ORDER:

This Writ Petition is filed by the petitioner seeking to declare that the action of the respondent in not considering the candidature of the writ petitioner for the post of Reader in Home Science and Nutrition and Child Development Departments, as unconstitutional, arbitrary and unsustainable and consequently direct the respondent-University to consider the claim of the writ petitioner for the post of Reader along with others.

The writ petitioner contends that he was appointed as a Lecturer in Home Science faculty of the respondent University and ever since, 1984, he had been holding the said post as 1st member of the faculty. He also held the charge of the Head of the Department. In terms of the UGC pattern, he was also awarded the Senior Lecturer scale of pay of Rs.3000 – 5000. His services have been fully appreciated. He also

handled a minor Research Project sanctioned by U.G.C. In the year 1990, the respondent invited applications for filing up various teaching posts in several faculties. Posts of Readers in Home Science faculty were also notified. The candidates were required to possess a good academic record with a doctoral degree or equivalent published work, evidence of being actively engaged in (1) Research or (2) Innovation in teaching methods or (3) Production of teaching materials. The candidates were also required to possess about 5 years experience of teaching and Research provided that at least three of these years are as Lecturer or an equivalent position. The notification sets out that this condition may be relaxed in case of candidates with outstanding record of teaching/Research. The last date for receipt of applications was 9-11-1990. He submitted his application for the post of Reader in Home Science. However, no selections were held pursuant to this notification. The respondent has taken out another notification during September/October, 1991 inviting applications for various posts teaching as well as non-teaching. 2 posts of Readers in Home Science faculty were also included in this notification. It was mentioned in this notification that those who responded to the advertisement NO.205/Estt./A/90, dated 3-10-90 need not apply again. The last date for receipt of the applications was set at 19-10-1991. The respondent University through its communication dated 7-3-1992 directed him to be present for an interview test on 25-3-1992 at 10.00 A.M., for the post of Reader in Home Science/Nutrition and Child Development. Accordingly, he appeared for the interview and the members of the selection committee were pleased with his performance. Though he secured decent marks, the selections were finalized only in favour of the candidates possessing Phd. Degree only. The respondent University has once notified various teaching faculty positions on 10-11-1992 including that of Readers in Home Science. Making a departure from the earlier notifications, the requirement for the posts of Readers, on this occasion, read as follows :

" Good academic record with a doctoral degree or equivalent published work. Candidates from outside the University system in addition shall also possess at least 55% marks or an equivalent or at the Master's degree level.

Eight years experience of teaching and/or research including upto 3 years for research degrees and made some mark in the area of scholarship as evidenced by quality of publications, contribution to educational innovation, design of new courses curricula."

The last date for submission of application was 15-12-1992. He submitted two applications on 10-12-1992 for the posts of Readers in the Department of “Nutrition and Child Development and Department of “Home Science”. His application has been forwarded through proper channel. He further contended that Ms. E.Manju Vani was appointed as a Lecturer in Home Science faculty of the Respondent University on 6-11-1988 and ever since she was working as a Lecturer. Subsequent to her appointment, she was awarded the doctoral degree of Ph.D. by Sri Venkateswara University. Dr. E.Manju Vani also submitted her application for appointment as a Reader in Home Science, though she did not possess 8 years of teaching experience. Dr. E. Manju Vani was advised to appear for the interview test on 20-1-1993 for being considered to the post of Reader in Home Science, while he was not so advised. She has only rendered 4 years of service as a lecturer and the stipulations in the notification would read that credit upto 3 years for research degrees can be accorded. Thus the minimum length of teaching experience required to be possessed was of at least 5 years, in case of those who possessed doctoral degrees. This requirement was relaxed in favour of Dr. Vani. While it came to his case, no such relaxation was accorded, in regard to his not possessing Ph.D. Degree though he possess more than 8 years of teaching experience. By virtue of the experience gained by him, there is no justification denying the same benefit to him this time. The impugned action on the part of the respondent is clearly discriminatory and is consequently violative of the fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India. This action is patently illegal and unsustainable. Therefore, the writ of mandamus for necessary directions as indicated above.

The respondent-University filed a counter with the following averments in brief :

The respondent University called for an interview of all those candidates who fulfilled the requisite qualifications with necessary experience. As per the requisite qualifications for the post of Reader, a candidate shall possess other Ph.D. or equivalent publications. All the candidates who have Ph.D. and all those who have one or more publications were called for an interview provided they have requisite experience. The candidates were called for an interview with a view to place their publications before the duly constituted Expert Selection Committee to consider their

equivalence with Ph.D. The petitioner neither possess Ph.D. nor a single publication to consider it equivalent to Ph. D. Hence, he was not called for an interview. Not having Ph. D or equivalent publication is not a 'short' ground as stated by the petitioner but it is an essential pre-requisite for filing an application for Reader's post as per rules. No discretion has been shown to any of the candidates. With regard to Dr. Vani, she possessed four years teaching experience, three years considered for her Ph.D and one year for her work in research project totaling to eight years as required. Hence, she was called for an interview. As per rules, in so far as experience is concerned, it is stated that eight years experience of teaching and research including upto three years for research degree. Thus, the experience, must consist of both teaching and research experience and totally teaching experience, it has been stated that five years teaching experience is compulsory. Hence, the writ petitioner claim based upon experience is totally unfounded.

The point for consideration is :

Whether the respondent-University has shown any discretion in respect of the petitioner and whether the petitioner is entitled to mandamus as prayed for?

POINT:

It is an undisputed fact that the petitioner is working as a lecturer. He has more than 8 years experience. It is also not in dispute that he does not possess Ph.D. and he did not publish any research work. By virtue of experience of 8 years only and his involvement in handling minor research project, he claims that he should have been considered for the post of reader along with other candidates.

In the counter, the 1st respondent clearly mentioned as to what are the qualifications and as to what was the experience, as to how the teaching experience has been counted to specify the requirement of 8 years experience. It is also made clear that in the notification itself that in addition to Ph.D. or equivalent research work, they must also possess the experience. Therefore, the petitioner was not considered for the Expert Selection Committee and the name of Dr. E. Manjuvani and others have been considered who possess the Ph.D and other requisite qualifications. Simply because the petitioner gained experience for more than 8 years as a lecturer, it is not the only qualification required for Readership.

After going through the record, I am convinced that no discretion has been shown by

the respondent-University in respect of the petitioner while making appointment as reader. The petitioner did not show that the candidates with lesser experience and lesser qualifications have been preferred. The only contention against Dr. E. Manjuvani is that she has four years experience but not 8 years as required under the notification. There is no violation of Articles 14 and 16 of the Constitution of India. I find no grounds to invoke the extraordinary jurisdiction of this Court to issue any direction as prayed for.

The writ petition is accordingly dismissed. No costs.

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Justice G. YETHIRAJULU

Dated 07-03-2006

Dvs

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